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KING COUNTY
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CASE #: 21-2-13757-8 SEA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

CARLA RUTH TOBY, Personal
Representative for the Estate of GRETA
CRESWELL,

Plaintiff,

v.

SAFEWAY, INC., a foreign corporation;

Defendant.

NO.

COMPLAINT FOR WRONGFUL
DEATH AND SURVIVAL
ACTION

COMES NOW the plaintiff, Carla Ruth Toby, Personal Representative for the
Estate of Greta Creswell, by and through her attorney, and hereby pleads and
alleges as follows:

I. PARTIES

1.1 Prior to this incident, Leopold Gabay and Greta Creswell were
husband and wife and were residents of King County, Washington.

1.2 Because of this incident, Plaintiff Carla Ruth Toby, was appointed the
Personal Representative of Greta Creswell's Estate under King County Superior
Court Cause No. 19-4-17934-9 SEA. Plaintiff Carla Ruth Toby is maintaining this

1 action in a representative capacity for the benefit of the Estate of Greta Creswell, as
2 well as on her own behalf.

3 1.3 Defendant Safeway, Inc., (hereinafter referred to "Safeway") is a
4 foreign for-profit corporation conducting business in the State of Washington,
5 including King County. Safeway owns and operates grocery stores in and
6 throughout King County. At all times relevant to this case, Safeway owned, leased,
7 and/or operated commercial property open to members of the public, namely
8 Safeway Store #1528 located at 460 SW Mt Si Blvd, North Bend, Washington.
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10 II. JURISDICTION & VENUE

11 2.1 Jurisdiction is proper in this Court because the tortious acts and
12 injuries occurred within the State of Washington. Venue is proper in this Court
13 because Defendant Safeway transacts business in King County and the tortious
14 acts and injuries occurred in King County.
15

16 III. LIABILITY

17 3.1 Plaintiff re-alleges the paragraphs set forth above and below.

18 3.2 On October 26, 2018, Safeway located at 460 SW MT Si Blvd, City of
19 North Bend, King County, State of Washington, was open for business. It invited
20 members of the public to come into its building.
21

22 3.3 On October 26, 2018, Leopold Gabay and Greta Creswell entered the
23 Safeway located at 460 SW MT Si Blvd, City of North Bend, King County, State of
24 Washington.

25 3.4 Leopold Gabay and Greta Creswell were at Safeway to purchase
26 groceries and other goods.

1 3.5 While waiting in the checkout line, Leopold Gabay mentioned to his
2 wife, Greta Creswell, that she should buy a LOTTO ticket to celebrate their
3 anniversary.

4 3.6 As Greta Creswell walked to purchase the LOTTO ticket, she slipped,
5 fell backwards, and landed hard on the floor hitting her head.

6 3.7 Upon information and belief, Greta Creswell slipped on a liquid
7 slippery substance on the floor.

8 3.8 Upon information and belief, a liquid slippery substance caused Greta
9 Creswell to slip and to fall to the floor.

10 3.9 Defendant Safeway was in control of the area where the liquid
11 slippery substance accumulated.

12 3.10 Defendant Safeway was responsible for the condition of the floor
13 where the liquid slippery substance accumulated.

14 3.11 Defendant Safeway was responsible for the maintenance of the floor
15 where the liquid slippery substance accumulated.

16 3.12 Defendant Safeway knew, or reasonably should have known, of the
17 liquid slippery substance that had accumulated on the floor. Despite that fact, the
18 liquid slippery substance was allowed to accumulate and remain as a danger to
19 invitees, including Greta Creswell.

20 3.13 Defendant Safeway's operating methods created the potential for
21 hazards that created an unreasonable risk of harm to invitees, including Greta
22 Creswell.
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3.14 Defendant Safeway failed to carry out inspections of the floors frequently enough to discover the dangers from liquid slippery substances and reasonably protect invitees, including Greta Creswell, from injuries.

3.15 Defendant Safeway failed to carry out cleaning operations of the floors frequently enough to remove liquid slippery substances on the floors and reasonably protect invitees, including Greta Creswell, from injuries.

3.16 Defendant Safeway should expect that its invitees would not discover or realize the existence of liquid slippery substances on the floors and would fail and/or be unable to protect themselves from the dangers of such substances on the floors.

3.17 Defendant Safeway failed to exercise ordinary care to protect invitees, including Greta Creswell, against the dangers of liquid slippery substances on the floors.

3.18 The tortious conduct, including the negligence, of Defendant Safeway was a proximate cause of the fall suffered by Greta Creswell described above and her resulting injuries and damages, including her death on January 28, 2019.

IV. DAMAGES

4.1 Plaintiff re-alleges the paragraphs set forth above and below.

4.2 As a direct and proximate result of the tortious conduct of Defendant Safeway as alleged in this complaint, Greta Creswell and her Estate suffered economic and non-economic damages, including but not limited to medical expenses, funeral and burial expenses, pre-death pain and suffering, anxiety, emotional distress, and loss of enjoyment of life, in amounts to be proven at trial,

1 including all damages as provided under Washington State Wrongful Death and
2 Survival Statutes.

3 4.3 As a direct and proximate result of Defendant Safeway's tortious
4 conduct herein, Greta Creswell sustained serious and ultimately fatal injuries.

5 4.4 As a direct and proximate result of the tortious conduct of Defendant
6 Safeway as alleged in this complaint, Leopold Gabay, the surviving husband of
7 Greta Creswell, suffered damages in an amount to be proven at trial, including the
8 destruction of the husband/wife relationship and all damages as provided under
9 Washington State Wrongful Death and Survival Statutes.

10 4.5 As a direct and proximate result of the tortious conduct of Defendant
11 Safeway as alleged in this complaint, Carla Ruth Toby, the surviving daughter of
12 Greta Creswell, suffered damages in an amount to be proven at trial, including the
13 destruction of the parent/child relationship and all damages as provided under
14 Washington State Wrongful Death and Survival Statutes.

15 4.6 Plaintiff's damages were not caused by any fault on the part of Greta
16 Creswell, but were caused solely by the tortious conduct of Defendant Safeway.

17 4.7 No other individuals or entities caused Plaintiff's injuries and
18 damages.
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20

21 **V. PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiff prays for judgment against Defendant Safeway,
23 jointly and severally, as follows:

24 1. For a judgment of liability in favor of Plaintiff and against Defendant
25 Safeway;
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1 2. For an award of damages in favor of Plaintiff and against Defendant
2 Safeway in an amount to be proven at the time of trial;

3 3. For prejudgment interest at the statutory rate on economic damages
4 incurred by Plaintiff;

5 4. For Plaintiff's costs and disbursements herein and a reasonable
6 attorney's fee;

7 5. For such further relief as to the Court seems just.

8 DATED this 15th day of October, 2021.

9
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